

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

| | | |
|-----------------------------------|---|----------------------|
| ECCLESIASTICAL DENZEL WASHINGTON, |) | |
| Register No. 990079, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 08-4092-CV-C-NKL |
| |) | |
| MATT BLUNT, et al., |) | |
| |) | |
| Defendants. |) | |

REPORT AND RECOMMENDATION

Plaintiff Ecclesiastical Denzel Washington, an inmate confined in a Missouri penal institution, brought this case under the Civil Rights Act of 1871, 42 U.S.C. § 1983, and its corresponding jurisdictional statute, 28 U.S.C. § 1343.¹

A review of the record indicates defendant J. Shields has not been served with process. Rule 4(m), Federal Rules of Civil Procedure, provides:

If a defendant is not served within 120 days after the complaint is filed, the court -- on motion or on its own after notice to the plaintiff -- must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Plaintiff was granted leave to proceed in forma pauperis on May 27, 2008. Here, it has been more than 120 days since plaintiff's complaint was filed naming J. Shields as a defendant. Service has been attempted upon defendant and was returned unexecuted on December 30, 2008. Plaintiff has not provided an additional address, requested an extension of time, or shown good cause why the time for service should be extended.

IT IS, THEREFORE, RECOMMENDED that plaintiff's claims against defendant J. Shields be dismissed, pursuant to Fed. R. Civ. P. 4(m).

¹This case was referred to the undersigned United States Magistrate Judge for processing in accord with the Magistrate Act, 28 U.S.C. § 636, and L.R. 72.1.

Under 28 U.S.C. § 636(b)(1), the parties may make specific written exceptions to this recommendation within twenty days. The District Judge will consider only exceptions to the specific proposed findings and recommendations of this report. Exceptions should not include matters outside of the report and recommendation. Other matters should be addressed in a separate pleading for consideration by the Magistrate Judge.

The statute provides for exceptions to be filed within ten days of the service of the report and recommendation. The court has extended that time to twenty days, and thus, additional time to file exceptions will not be granted unless there are exceptional circumstances. Failure to make specific written exceptions to this report and recommendation will result in a waiver of the right to appeal. See L.R. 74.1(a)(2).

Dated this 12th day of February, 2009, at Jefferson City, Missouri.

/s/ William A. Knox

WILLIAM A. KNOX
United States Magistrate Judge